

REMARKS

The Examiner is thanked for the examination of this application. In this Office Action, the Examiner withdrew the rejections in the last Office Action, and presented new rejections based on the same art that was already of record. The Applicant has amended the claims to further define the invention, and respectfully requests reconsideration.

This response is being filed within 2 months of the final office action, and thus, expedited processing is respectfully requested.

REJECTIONS UNDER 35 USC 102

Claims 1 and 3-32 were rejected under 35 USC § 102(b) as being anticipated by Gvili et al. (Depth Keying, SPIE Vol. 5006(2003)). This rejection is respectfully traversed.

Gvili et al. is concerned with the identification of foreground and background of a scene, in order to isolate the foreground. As noted on page 564, the first line of Section 1, Gvili et al. states: "Throughout this paper we shall refer to the objects of interest as the *foreground*, and to the objects that we want to exclude as the *background*, regardless of their actual position in the scene." (emphasis added). Gvili et al. explains with great care, that the focus of his processing is to eliminate the background, while also dealing with the transition regions around objects in the foreground. On page 569, Givili et al. discusses the "smear" that is caused near object boundaries, as sharp edges are difficult to represent.

At the bottom of page 569, Givili et al. defines a process for focusing only on the foreground objects, and states that the recovery of the contour of the foreground objects is done only during the time that a full scan of the frame is done. Further processing then centers on the foreground object. Boundary only processing is further discussed at line 1 of page 570. Finally, Givili et al. discusses on page 571, that "processing is computationally efficient: it is performed on a limited area of the frame, around the object boundaries..."

The processing defined in the present claims, however, are not limited to boundaries of foreground objects or limited areas of the frame. To the contrary, once the foreground and background is identified, a depth mask is produced. Using this depth mask, it is possible to make adjustments to the captured image characteristics, whether they be in the background or foreground. Accordingly, while the teachings of Givili et al. focus on excluding the background objects and processing the foreground object boundaries, the currently claimed invention makes clear that the depth information, saved as a depth mask, is used to make adjustments to the capturing and rendering of characteristics associated with any location of the image. Camera settings can be adjusted, based on the identified depth map. The claims have been amended to more clearly point out these differences.

Independent **claim 1**, for instance, defines adjusting the image capture device parameters independently in the foreground than in the background. Thus, adjustment is being set for both foreground and background pixels, without the excluding the background--as taught by Gvili et al. (See page 564, lines 1-2 of Section 1).

Independent **claim 9** defines adjusting pixel values associated with the foreground region is independent of adjusting of pixel values associated with the background region. And, the adjusting of pixel values is according to bit values of the depth mask.

Independent **claim 17** now defines that the image capture logic is configured for adjustments to a selected characteristic for foreground objects independently of adjustments to a selected characteristic for background objects of the image data of the scene.

Independent **claim 25** defines that the adjustment of each pixel is independent of adjustment to another pixel, whether associated with foreground objects or background objects.

Given these clarifying amendments, and the differences pointed between what is claimed and the teachings of Gvili et al., the Applicant respectfully submits that Gvili et al. fails to teach or suggest each of the now claimed limitations. Accordingly, the Office is respectfully requested to withdraw the Section 102 rejection.

REJECTIONS UNDER 35 USC 103

Claim 2 was rejected under 35 USC § 103 (a), as being unpatentable over Gvili et al. in view of Tuomi (US 7,061,507). This rejection is respectfully traversed. In the last office action, the Examiner acknowledged that Gvili et al. *does not* disclose the feature of adjusting image capture device parameters and relies on Tuomi for this feature. Further, as noted above, Gvili et al. also does not teach that which the office asserts. Indeed, Gvili et al. teaches to *limit processing* to foreground and boundaries. (See page 571) Consequently, the Applicant respectfully submits that Tuomi fails to cure the deficiencies

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of Gvili et al. Accordingly, the Applicant requests that this Section 103 rejection be withdrawn.

Also, as stated in the prior response, Tuomi is directed to anti-aliasing and corresponding Z-buffer graphics issues. Tuomi never discusses adjusting image capture device settings as specified in claim 1. That is, the rendering operations discussed in Tuomi are unrelated to adjusting image device settings, e.g., on a camera, based on a depth mask generated as specified in claim 1.

In view of the foregoing, Applicants respectfully submit that all of the pending claims are in condition for allowance. A notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 774-6903. If any fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. SONYP031). A copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
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